

**RESOLUTION NO. R2020-89**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE SITE PLAN MODIFICATION REQUEST, SUBMITTED BY FORM GROUP, INC. FOR THE DEVELOPMENT OF A 685,957 SQUARE FOOT, TWENTY-THREE STORY MIXED-USE DEVELOPMENT, CONSISTING OF 2,708 SQUARE FEET OF COMMERCIAL SPACE, 367 RESIDENTIAL UNITS, AND 655 PARKING SPACES, ON A 1.78 ACRE PARCEL OF LAND LOCATED AT 16395 BISCAYNE BOULEVARD, NORTH MIAMI BEACH, FLORIDA; PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**(P&Z Item No. 20-5, August 10, 2020)**

**WHEREAS**, the City of North Miami Beach (“City”) Code of Ordinances, Chapter 24, “Zoning and Land Development Code” (the “ZLDC”), Article XV, “Other Development Review Procedures,” Section 24-172, “Site Plan Review” provides that site plan approval is required for new developments, any significant shift in the type of land use that involves major interior alteration, and any change in required parking or other similar impact determined to be significant by the Community Development Director; and

**WHEREAS**, Form Group, Inc. was granted conditional use and site plan approval, pursuant to Resolution No. 2015-90 (the “Resolution”), to develop a 1,505,544-square foot mixed-use development, consisting of three towers, 730 dwelling residential units, 177 hotel rooms and 9,178 square feet of commercial space, on two (2) lots (north and south parcels) with a combined total area of 4.16 acres, located at 16375-16395 Biscayne Boulevard; and

**WHEREAS**, more specifically, the Resolution approved the development a 852,939 square foot, mixed-use development, including a 32-story tower, 480 residential dwelling units, and 740 parking spaces on the 1.78-acre north parcel located at 16395 Biscayne Boulevard, North Miami Beach Florida, (“Property”) as legally described in Exhibit “A;”

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**WHEREAS**, pursuant to ZLDC Section 24-172, Ethan B. Wasserman on behalf of Form Group, Inc. (the “Applicant”), requests a modification to the approved site plan for the north parcel, in order to develop a 685,957-square foot, mixed-use development, including a twenty-three (23) story tower, 367 residential dwelling units, 2,708 square feet of commercial space, and 655 parking spaces (the “Site Plan Modification”) on the Property; and

**WHEREAS**, the Site Plan Modification reduces the total number of residential dwelling units by 113 units (the “Unused Units”), pursuant to the City Comprehensive Plan; and

**WHEREAS**, the Unused Units shall be allocated back into the “basket of rights” for the Mixed-Use South Waterfront (“MU/SWF”) zoning district; and

**WHEREAS**, the Site Plan Modification also increases the non-residential square footage by 2,708 square feet, reducing the remainder of available non-residential square footage in the “basket of rights” for the MU/SWF zoning district to 475,887 square footage; and

**WHEREAS**, the Applicant has not submitted a request to modify the approved site plan for the south parcel, located at 16375 Biscayne Boulevard; and

**WHEREAS**, the amended site plan for the north and south parcels will now feature a total of 617 residential dwelling units, 177 hotel rooms, and 11,886 square feet of commercial space; and

**WHEREAS**, the Property is MU/SWF which is intended to establish a mixed-use area that provides for multi-family housing that enables residents to live on the waterfront; and

**WHEREAS**, after a duly noticed public hearing held on August 10, 2020, the Planning and Zoning Board by vote of 5 to 0, recommended approval of the Site Plan Modification, subject to the conditions set forth and included below in Section 2; and

**WHEREAS**, the City Commission conducted a duly noticed public hearing in accordance with the law; and

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**WHEREAS**, the Mayor and City Commission find the proposed Site Plan Modification is consistent with the City Comprehensive Plan and furthers the purpose, goals, objectives and policies of the Comprehensive Plan, and is in the best interest of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA:**

**Section 1. Recitals.** The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof.

**Section 2. Decision.** Pursuant to Chapter 24, “Zoning and Land Development Code,” Article XV, “Other Development Review Procedures,” Section 24-172, “Site Plan Review” the following attached site plan to construct a 685,957 square foot, twenty-three (23) story mixed-use development; consisting of 2,708 square feet of commercial space, 367 residential dwelling units, and 655 parking spaces, on the 1.78-acre parcel, attached as Exhibit “B” and incorporated by reference, is approved, subject to the following conditions:

1. Unless otherwise provided, all the below conditions shall be completed and complied with prior to the issuance of the building permit.
2. The conditions included in Resolution No. 2015-90 are incorporated by this reference and shall remain in force and effect.
3. The 113 unused residential dwelling units shall be allocated back into the “basket of rights” for the Mixed-Use South Waterfront (“MU/SWF”) zoning district.
4. The conditions of approval for this site plan are binding on the Applicant, the property owners, operators, and all successors in interest. Prior to issuance of any Master Building Permit, Applicant shall execute a covenant running with the land, binding upon its heirs, successors and assigns, subject to the approval of the City Attorney, which shall be recorded in the public records of Miami-Dade County, Florida, at Applicant's sole expense, containing all of the conditions and provisions required by this Resolution. This recorded covenant may be amended from time to time and shall be re-recorded after each amendment at the Applicant's sole expense, subject to the approval of the City Attorney.
5. Construction of the proposed project shall be in conformance with the following:
  - a. Boundary Survey prepared by Longitude Surveyors, LLC.
  - b. Plans prepared by FormGroup, Inc., VSN Engineering, Inc., Caymares Martin-Arch & Eng. Design, Inc., including the following:

- A-0 Cover
- A-00 Overall Site Plan
- DIAG-1 Easement Diagram
- DIAG-2 Shadow Studies
- A-001 Renderings
- A-002 Renderings
- A-100 Data
- A-101 Data
- A-102 Ground Site Plan
- A-103 Typical Floor Site Plan
- A-104 TYP. Floor Site Plan (3-8)
- A-105 9<sup>th</sup> Floor Site Plan
- A-106 TYP. Floor Site Plan (10-21)
- A-107 Roof Site Plan
- A-108 Overall Ground Floor Plan
- A-108A Riverwalk Plan Detail
- A-109 2<sup>nd</sup> Floor Plan
- A-110 Typical Floor Plan (11-22)
- A-113 Roof Plan
- A-114 Typical Unit Floor Plan
- A-115 Typical Unit Floor Plan
- A-116 Typical Unit Floor Plan
- A-117 Typical Unit Floor Plan
- A-118 Typical Unit Floor Plan
- A-119 Typical Unit Floor Plan
- A-120 Typical Unit Floor Plan
- A-121 Typical Unit Floor Plan
- A-200 West Elevation
- A-201 East Elevation
- A-202 North Elevation
- A-203 South Elevation
- A-204 3D Views
- A-300 Building Section
- A-301 Building Section
- FS-1 Fire Set-up Plan
- C-0 Civil Cover Sheet
- C-1 Overall Site Plan
- C-2 Site & Paving Plan

- C-3 Site & Paving Details
- C-4 Drainage Plan
- C-5 Grading Plan
- C-6 Storm Drainage Details
- C-7 Sediment Tank/ Drainage Well Details
- C-8 Sediment Tank/ Drainage Well Details
- C-9 Sediment Tank/ Drainage Well Details
- C-10 Sediment Tank/ Drainage Well Details
- C-11 Water System Cover
- C-12 Sewer System Cover
- C-13 Site Utilities Plan
- PH-01 Site Photometric Plan
- TD-1 Tree Disposition Plan
- TD-2 Tree Disposition Plan
- L-1 Landscape Plan
- L-2 Riverwalk Landscape Plan
- L-3 Recreational Deck Landscape Plan
- L-4 Roof Deck Landscape Plan

6. All representations proffered by the Applicant's representatives as a part of the site plan application review at the Planning and Zoning Board and City Commission public hearings.
7. Substantial modifications to the plans submitted and approved as part of the application may require the Applicant to return to the Planning and Zoning Board and Mayor and City Commission for approval. Insubstantial changes shall include proportionate reductions in residential units and parking spaces by less than 5% of the total proposed project, changes that do not alter the project more than 5% of lot coverage, setbacks, height, density and intensity calculations so long as the proposed amendment does not cause an increase in the number of average daily trips; does not alter the location of any points of ingress, egress, access and vehicular and pedestrian patterns to the site; and does not violate any condition placed upon the site plan as originally approved. Insubstantial changes may be administratively approved by the City Manager or designee. Any de minimis amendments to the plans or site plans which cannot be resolved administratively shall be returned to the Mayor and City Commission for a formal review. However, under no circumstances, may any plans, site plans, building, structure, or project be administratively altered by more than 5% lot coverage, setbacks, height limitations, as well as density or intensity calculations set forth in a previously approved site plan.
8. Applicant shall remove all public hearing signage no later than 48 hours after the final public hearing for the development project.

9. No later than 90 days following the final City Commission approval, the Applicant shall enter into an agreement with the City to defend, indemnify and hold harmless (using legal counsel acceptable to the City) the City, its agents, servants and employees, from and against any loss, cost, expense, claim, demand or cause of action of whatever kind or nature arising out of or related to any act or omission related to the variances and for which the City, its agents, servants, or employees, are alleged to be liable or charged with such expense. The Applicant shall pay all costs and expenses related to any legal defense required by the City pursuant to the foregoing.
10. Applicant shall provide a unity of title or covenant in lieu of unity of title, in a form acceptable to the City Attorney, for all parcels prior to the issuance of the Master Building Permit. The unity of title or covenant in lieu of unity of title shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of the Applicant.
11. The Applicant shall comply with all applicable conditions and permit requirements of the Miami-Dade County Fire Department, the Water and Sewer Department, and Department of Regulatory and Economic Resources; and the Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and any other applicable regulatory agency.
12. The words "Aventura", "Miami Beach," and "Sunny Isles Beach" shall not be used by the applicant immediately preceding or following the Project name. The words "Aventura", "Miami Beach" and "Sunny Isles Beach" shall not be part of the website address for the Project. References in the marketing materials to nearby communities shall be limited to descriptions of entertainment, shopping or dining locations, or other landmarks; the Applicant shall identify the Project as being located in the City of North Miami Beach, Florida.
13. The Applicant shall post a sign on-site providing contact information in case of any complaint or concern during construction. The sign shall be removed upon the earlier of the City's issuance of a temporary or full Certificate of Occupancy.
14. Applicant must join the NMBPD *Trespass After Warning* Program, provide the NMBPD with access to the property at all times, and a safety plan.
15. All above ground utilities on-site and on adjacent public right of ways shall be relocated underground pursuant to Section 24-62(F) of the City's Code of Ordinances.
16. All water and sewer service installations are the responsibility of the Applicant and must be permitted through the NMB Water Department.
17. The Applicant, its successors and assigns shall comply with all City ordinances applicable to development and permit approvals at the time of adoption of the Resolution and in the event the Master Building Permit expires, all approvals and prior fees paid, shall be subject to forfeiture. This shall not be applied to City of North Miami Beach impact fees paid, which would not be refunded but would be credited to the property for any subsequent development.
18. All City impact fees shall be paid prior to the issuance of a Master Building Permit. In the

event the Master Building Permit expires, all approvals and prior fees paid, shall be subject to forfeiture. This shall not be applied to impact fees paid to the City of North Miami Beach, which would not be refunded, but credited to the property for any subsequent development.

19. Prior to the issuance of the Master Building Permit, the applicant shall place back into the basket of rights 113 residential dwellings for the Mixed-use South Waterfront Zoning District.
20. Prior to the issuance of a Master Building Permit, the City Manager or designee and the City Attorney, may refer any application for review by engineering, planning, legal, technical, environmental, or professional consultant(s) as deemed necessary. The City shall be reimbursed by Applicant for reasonable fees and charges made by such consultant(s) or professional(s) within thirty (30) days of submission of a City voucher. These fees and charges are in addition to any and all other fees required by the City.
21. Prior to the issuance of the Master Building Permit, the Applicant shall meet all requirements of the Department of Public Works Solid Waste Division and ensure that the solid waste container storage area be visually screened from ground view of surrounding and adjacent properties.
22. Prior to the issuance of the Master Building Permit, the applicant shall submit a Site Management Plan and a Temporary Construction Fencing plan pursuant to Section 16-5 of the North Miami Beach Code of Ordinances.
23. Prior to issuance of a Certificate of Occupancy, the Applicant shall have the registered landscape architect, or a certified arborist certify that the landscaping, tree removal, and tree mitigation have been completed in accordance to the landscape plan and tree removal permit.
24. Prior to issuance of the Certificate of Occupancy, the Applicant shall have the registered engineer certify that on-site lighting has been constructed and is operating in accordance with the photometric plans and must not exceed 1.0 Foot-candle beyond all propertylines.
25. Prior to the issuance of a temporary Certificate of Occupancy, the Applicant shall request and complete the address assignment process for the common areas and residential units as required, with the U.S. Postal Service, Miami-Dade County Fire Rescue, and the Miami-Dade County Property Appraisers. This Resolution shall be made part of any declaration of condominium and other applicable condominium documents, if so established.
26. Prior to the issuance of the Certificate of Occupancy, the Applicant shall provide a detailed valet traffic operational plan, including hours of operation and a circulation plan. The valet traffic operational plan shall be subject to review and approval by the Community Development Director.
27. On-site security shall be provided to ensure the security of residents and property.
28. The Applicant and its successors and assigns, including but not limited to the successor homeowners' association, if any, shall maintain all landscape and exterior hardscape

features and materials on site and throughout all public improvements in good condition, replacing diseased, dying or dead plant material as necessary and repairing / cleaning / painting all hardscape features so as to present a healthy and orderly appearance at all times.

29. The construction of the secondary stop control at the primary driveway west of the proposed marked crosswalk is required prior to final certificate of occupancy. This includes the installation of the stop bar and stop sign at the US-1/Biscayne Boulevard driveway connection currently being proposed as part of the FDOT intersection improvement project.
30. Upon issuance of a hurricane warning by the National Weather Service or similar agency, all removable items from pool decks, roof decks and other outdoor spaces shall be immediately removed and secured.
31. "No Dumping – Drains to Stream" signage/markers must be installed along the right-of-way and waterfront promenade.
32. The developer shall work with the City of North Miami Beach Human Resources Department to advertise employment opportunities and use good faith efforts to promote the hiring of City residents to fill employment positions within the development during all phases of construction and development.

**Section 3. Findings of Fact.** The Mayor and City Commission make the following

FINDINGS OF FACT based upon the substantial competent evidence provided:

The requested site plan meets the applicable Site Plan Review Standards provided for in Section 24-172 of the Code of Ordinances of the City of North Miami Beach. The requested site plan approval is not contrary to the public interest or detrimental to the community and is compatible with the surrounding land uses while maintaining the basic intent and purpose of the zoning and land use regulations.

**Section 4. Time for Building Permit.** Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the Applicant must apply for a master building permit from the City within one (1) year of the date of this Resolution or the granted site plan approval and variances shall be deemed null and void, and the Applicant shall be required to reinstate the site plan review process unless the term is extended administratively or by the City Commission prior to its expiration.

**Section 5. Limitation of Approval.** The issuance of this development permit does not in any way create a vested right(s) on the part of the Applicant to obtain a permit from a county,



state or federal agency, and does not create any liability on the part of the municipality for issuance of the permit if the Applicant fails to obtain requisite approvals or does not fulfill the obligations imposed by a county, state or federal agency or undertakes actions that result in a violation of county, state, or federal law.

**Section 6. Conflicts.** All resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

**Section 7. Effective Date.** This Resolution shall be in force and take effect immediately upon its passage and adoption.

**APPROVED AND ADOPTED** by the City Commission of the City of North Miami Beach, Florida at regular meeting assembled this **15<sup>th</sup> day of September, 2020.**

[SIGNATURE PAGE TO FOLLOW]

ATTEST:

  
ANDRISE BERNARD  
CITY CLERK

  
ANTHONY F. DEFILLIPO  
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &  
LANGUAGE & FOR EXECUTION

  
WEISS SEROTA HELEMAN COLE &  
BEIRMAN, P.L.  
CITY ATTORNEY

SPONSORED BY: Mayor and City Commission

	YES	NO	ABSTAIN	ABSENT
Commissioners				
Mayor Anthony DeFillipo	X			
Vice-Mayor Barbara Kramer	X			
Commissioner McKenzie Fleurimond	X			
Commissioner Fortuna Smukler	X			
Commissioner Phyllis S. Smith	X			
Commissioner Michael Joseph	X			
Commissioner Paule Villard	X			

**Exhibit "A"**  
**LEGAL DESCRIPTION**

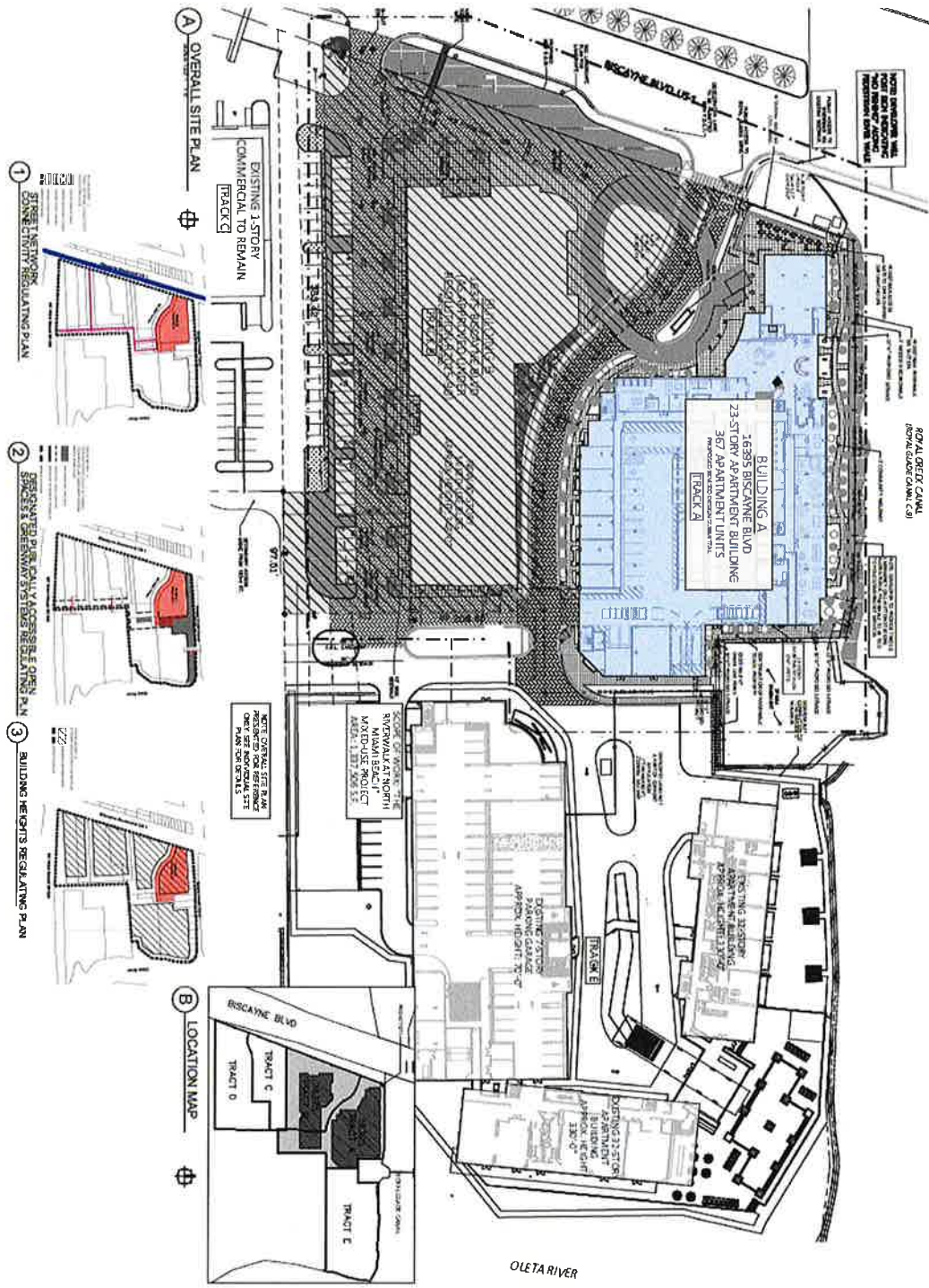
NORTH MIAMI BEACH PLACE PB 155-86 T-20374 TRACT A LESS BEG AT SELY COR OF  
TR A TH N 04 DEG W 206.66FT S 85 DEG W 94.80FT S 04 DEG E 95.45FT SLY AD 27.40FT  
SLY & ELY AD 68.50FT N 85 DEG E 102.41FT TO POB LOT SIZE 77484 SQ FT M/L FAU 07  
2216 000 0015 & 005-0010

Tax Folio: 07-2216-042-0010

A/K/A

16395 Biscayne Boulevard North Miami Beach, Florida

# Exhibit "B" SITE PLAN MODIFICATION



<p><b>salesie</b> Miami Beach</p>	<p><b>The Estate</b> Commission</p>	<p><b>FORUM GROUP</b> ARCHITECTURE CONSULTING</p>	<p><b>THE RIVERWALK MANOR</b></p>
<p><b>Digitally Signed by</b> Chris A. Kozicki 2020.07.12 17:31:48 -05'00'</p>			
<p><b>A-00</b></p>			